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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3304-FN]

Medicare and Medicaid Program; Continued Approval of the Joint Commission's Psychiatric Hospital Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve the Joint Commission for continued recognition as a national accrediting organization for psychiatric hospitals that wish to participate in the Medicare or Medicaid programs. A psychiatric hospital that participates in Medicaid must also meet the Medicare conditions of participation (CoPs) as required by statute.

EFFECTIVE DATE: This notice is effective February 25, 2015 through February 25, 2019.

FOR FURTHER INFORMATION CONTACT:

Monda Shaver, (410) 786-3410.

Cindy Melanson, (410) 786-0310.

Patricia Chmielewski, (410) 786-6899.

SUPPLEMENTARY INFORMATION:

I. Background

A healthcare provider may enter into an agreement with Medicare to participate in the program as a psychiatric hospital provided certain requirements are met. Section 1861(f) of the Social Security Act (the Act) establishes criteria for facilities seeking

participation as a psychiatric hospital. Regulations concerning Medicare provider agreements in general are at 42 CFR part 489 and those pertaining to the survey and certification for Medicare participation of providers and certain types of suppliers are at 42 CFR part 488. The regulations at 42 CFR part 482 subpart E, set forth the specific conditions that a provider must meet to participate in the Medicare program as a psychiatric hospital.

Generally, to enter into an agreement, a psychiatric hospital must first be certified by a State Survey Agency as complying with the conditions or requirements set forth in part 482 subpart E of our regulations. Thereafter, the psychiatric hospital is subject to regular surveys by a State Survey Agency to determine whether it continues to meet these requirements. However, there is an alternative to certification surveys by state agencies. Accreditation by a national Medicare accreditation program approved by the Centers for Medicare & Medicaid Services (CMS) may substitute for both initial and ongoing state agency review.

Section 1865(a)(1) of the Act provides that, if the Secretary of the Department of Health and Human Services (the Secretary) finds that accreditation of a provider entity by an approved national accrediting organization meets or exceeds all applicable Medicare conditions, we may treat the provider entity as having met those conditions, that is, we may “deem” the provider entity to be in compliance. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

Part 488 subpart A implements the provisions of section 1865 of the Act and requires that a national accrediting organization applying for approval of its Medicare accreditation program must provide CMS with reasonable assurance that its accredited

provider entities meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at §488.4 and §488.8(d)(3). The regulations at §488.8(d)(3) require an accrediting organization to reapply for continued approval of its Medicare accreditation program every 6 years or sooner, as determined by CMS. The Joint Commission's current term of approval as a Medicare accreditation program for psychiatric hospitals expires February 25, 2015.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

III. Provisions of the Proposed Notice

On September 23, 2014, we published a proposed notice in the **Federal Register** (79 FR 56806) entitled "Continued Approval of the Joint Commission's Psychiatric Hospital Accreditation Program" announcing the Joint Commission's request for continued approval of its Medicare psychiatric hospital accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at §488.4 and §488.8, we conducted a review of the Joint Commission's Medicare psychiatric hospital accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An onsite administrative review of the Joint Commission's: (1) corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its psychiatric hospital surveyors; (4) ability to investigate and respond appropriately to complaints against accredited psychiatric hospitals; and (5) survey review and decision-making process for accreditation.

- A comparison of the Joint Commission's Medicare accreditation program standards to our current Medicare psychiatric hospital conditions of participations (CoPs).

- A documentation review of the Joint Commission's survey process to--

- ++ Determine the composition of the survey team, surveyor qualifications, and the Joint Commission's ability to provide continuing surveyor training.

- ++ Compare the Joint Commission's processes to those we require of state survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against accredited psychiatric hospitals.

- ++ Evaluate the Joint Commission's procedures for monitoring psychiatric hospitals it has found to be out of compliance with the Joint Commission's program requirements. (This pertains only to monitoring procedures when the Joint Commission identifies non-compliance. If non-compliance is identified by a State Survey Agency through a validation survey, the State Survey Agency monitors corrections as specified at §488.7(d).)

- ++ Assess the Joint Commission's ability to report deficiencies to the surveyed

psychiatric hospital and respond to the psychiatric hospital's plan of correction in a timely manner.

- ++ Establish the Joint Commission's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

- ++ Determine the adequacy of the Joint Commission's staff and other resources.

- ++ Confirm the Joint Commission's ability to provide adequate funding for performing required surveys.

- ++ Confirm the Joint Commission's policies with respect to surveys being unannounced.

- ++ Obtain the Joint Commission's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the September 23, 2014 proposed notice also solicited public comments regarding whether the Joint Commission's requirements met or exceeded the Medicare CoPs for psychiatric hospitals. We received one comment in response to our proposed notice. The commenter supported our approval of the Joint Commission for continued recognition as a national accrediting organization for psychiatric hospitals that wish to participate in the Medicare or Medicaid programs.

IV. Provisions of the Final Notice

A. Differences Between the Joint Commission's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared the Joint Commission's psychiatric hospital accreditation requirements and survey process with the Medicare CoPs in part 482, and the survey and certification process requirements of parts 488 and 489. Our review and evaluation of the Joint Commission's psychiatric hospital accreditation program application, which were conducted as described in section III of this final notice, identified a number of areas in which, as of the date of this notice, the Joint Commission is in the process of, or has completed, revising its standards in order to ensure that its accredited psychiatric hospitals meet the following regulatory requirements:

- Section 482.61(a)(2), requiring that the medical record include the diagnosis of intercurrent diseases as well as the psychiatric diagnoses.
- Section 482.61(a)(4), requiring that social service records include a social history and reports of interviews with patients, family members, and others.
- Section 482.61(a)(5), requiring that a complete neurological examination be recorded at the time of the admission physical examination.
- Section 482.61(b)(4), requiring that the psychiatric evaluation includes the onset of illness and the circumstances leading to admission.
- Section 482.61(b)(7), requiring that the psychiatric evaluation include an inventory of the patient's assets.
- Section 482.61(c)(1), requiring that the individual comprehensive

treatment plan be based on the patient's strengths and disabilities.

- Section 482.61(c)(1)(i), requiring that the treatment plan contain a substantiated diagnosis.
- Section 482.61(c)(1)(v), requiring that the treatment plan contain adequate documentation to justify the diagnosis, treatment, and rehabilitation activities carried out.
- Section 482.61(c)(2), requiring that the treatment plan contain documentation of the treatment received by the patient, in a way that assures all active therapeutic efforts are included.
- Section 482.61(d), requiring that progress notes contain recommendations for revisions in the treatment plan, as indicated, as well as a precise assessment of the patient's progress in accordance with the original or revised treatment plan.
- Section 482.61(e), requiring that each patient who has been discharged has a documented discharge summary.
- Section 482.62(c), requiring that, if medical and surgical diagnostic and treatment services are not available within the institution, the institution have an agreement with an outside source of these services to ensure that they are immediately available or a satisfactory agreement must be established for transferring patients to a general hospital that participates in the Medicare program.
- Section 482.62(g)(1), requiring that therapeutic activities be appropriate to the needs and interests of patients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

In addition, we determined that the Joint Commission is in the process of, or

has completed, revising its accreditation survey processes in order to ensure that they meet the following regulatory requirements:

- Section 488.4(a)(3), regarding the sample sizes required for medical record reviews and the minimum number of medical records to be reviewed during the survey process.
- Section 488.8(a)(2)(v), requiring that complaint data submitted to CMS be accurate.
- Section 488.8(a)(2)(ii), requiring that a process be in place to conduct routine second level survey documentation review to assure that deficiency citations are made at the appropriate level when no “flags” have been placed on the survey report through the automated process of the electronic scoring system or the surveyor; that surveyors are adequately equipped and trained to appropriately identify circumstances posing an immediate threat to life and safety; that medical records and credentialing records are sampled appropriately, based on services provided and types of staff employed; and that medical records and credentialing records are reviewed thoroughly, in a uniform and complete manner by surveyors.
- Section 488.9, requiring the Joint Commission to consistently provide CMS access to observe its entire survey process, including surveyors’ use of resources provided outside of the accreditation standards manual (for example, discussions with its Standards Interpretation Group, as outlined in the application).
- Section 488.26(b), regarding surveyors’ abilities to--
 - Accurately and completely document instances of non-compliance at the

appropriate level of citation [condition versus standard level citations];

- Ensure that all instances of observed non-compliance are documented in the survey report; and,
- Ensure that surveyors do not minimize the importance of compliance with regulations.

B. Term of Approval

Based on our review and observations described in section III of this final notice, we approve the Joint Commission as a national accrediting organization for psychiatric hospitals that request participation in the Medicare program, effective February 25, 2015 through February 25, 2019.

To verify the Joint Commission's continued compliance with the provisions of this final notice, CMS will conduct a follow-up corporate on-site visit and survey observation within 18 months of the publication date of this notice.

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

CMS-3304-FN

Dated: February 13, 2015

Marilyn Tavenner,

Administrator,

Centers for Medicare & Medicaid Services.

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